

REMARKS

Claims 1, 4, 5 and 9 are amended. Claims 7 and 8 are canceled. New claims 10-13 have been added. Claims 1-6, and 9-13 remain in the application.

The Applicant would like to thank the Examiner for courtesies extended during the phone interview of November 18, 2008. In particular, the reference to Johnstone was discussed, and that the tension can be adjusted without unlocking the device from the user.

Claims 1-7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone (US Patent 5,538,502) in view of Danzger (US Patent 5,503,620). The applicant respectfully traverses this rejection.

U.S. Patent No. 5,538,502 to Johnstone discloses a surgical chest dressing 10 that includes an elastic central panel 12 joined to a left dressing half 14 and a right dressing half 16. Each of the left dressing half and right dressing half includes an outer ply and an inner ply and a panel of nonstretchable material disposed between the outer ply and inner ply. A stay cover 41 and stay that are generally inclined and vertical are positioned along vertically oriented edges of the nonstretchable material portions of each left dressing half and right dressing half. The ends of the panel overlap to provide a constant tension to the chest of the patient, while the patient's breast are biased inwardly away from the patient's sides by the stays and nonstretchable material portions, to fixate the patient's breasts. Johnstone '502 does not disclose a surgical chest dressing that includes a tensioning means for operatively varying the base tension of the chest dressing while on the patient between the base

tension and another tension or that automatically returns to the base tension when the tensioning means is released.

U.S. Patent No. 5,503,620 teaches a back support that includes a primary support belt 12 and a secondary tensioning belt 14 that overlies the primary support belt and is of lesser width and longitudinal extent than the primary support belt. Fasteners 50,54 are used to join the edges of the belt. The belt includes vertically extending stay pockets 36,38, 40 42 along the primary support belt to receive a stay member 48. The band includes elastic tunnel members 98,100,102 and 104 that are spaced strips of elastic material that overlie the tensioning belt portion and color indicator band and provide the user with an indication of the proper tensioning of the belt. Danzger '620 does not disclose a surgical chest dressing that includes a tensioning means for operatively varying the base tension of the chest dressing between the base tension and another tension or that automatically returns to the base tension when the tensioning means is released.

In contradistinction, claim 1 as amended teaches a post-operative chest support worn by a patient that includes a chest encircling band having a portion of stretchable material that is uniformly stretchable along the entire circumference of the band and the band has a base tension. The band includes a tensioning means located within a pocket on a front surface of the band that is actuatable by the patient to vary the tension of the band between the base tension and another tension, such that the band automatically returns to the base tension when the patient releases the tensioning means. Claims 9 and 10 are similar to claim 1 and includes additional features.

Johnstone '503 expressly teaches a surgical chest dressing that has a fixed tension. Johnstone '503 does not teach a surgical dressing that has an initial base tension and a tensioning means for varying the base tension when the tensioning means is actuated or that the surgical dressing automatically returns to the base tension when the tensioning means is released, as taught by the present application.

Johnstone '503 expressly teaches that the surgical dressing includes a right and left nonstretchable panel for biasing the patient's breast tissue towards the center incision to provide areas of differential support. (Col. 6, lines 54-64) Johnstone '503 simply does not teach that a constant base tension is applied across the band, as taught by the present application.

Danzger expressly teaches that a color indicator band that overlies the tensioning belt portion and provides an indicator of the proper or "safe" initial tensioning of the belt. Danzger simply does not teach that a surgical dressing that has an initial base tension and a tensioning means for varying the base tension when the tensioning means is actuated or that the surgical dressing automatically returns to the base tension when the tensioning means is released, as taught by the present application.

A surgical garment that exerts a continuous constant tension or pressure is not the same as a surgical garment that provides for temporarily changing the pressure and automatically returning back to the initial pressure. Therefore, claims 1 and 9 as amended, new claim 10 and the claims dependent therefrom are clearly distinguishable from the cited art.

Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone (US Patent 5,538,502) in view of Danzger (US Patent 5,503,620) and Fletcher (4,630,610). Claim 8 has been canceled, therefore applicant respectfully submits that the rejection with regards to claim 8 is now moot.

The Applicant respectfully submits that claims 1, 9 and 10 as amended and the claims dependent there from overcome the rejection under 35 U.S.C. §103(a).

Based on the above, Applicant submits that the claims are in a condition for allowance, which allowance is respectfully solicited. If the Examiner finds to the contrary, it is respectfully requested that the undersigned in charge of this application be called at the telephone number given below to resolve any remaining issues.

December 9, 2008

Respectfully submitted,

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